

EXHIBIT A

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF PENNSYLVANIA

3 MICHAEL ESTRADA, : Case No. 2:12-cv-00604-MSG
4 INDIVIDUALLY AND ON BEHALF :
5 OF OTHERS SIMILARLY : Philadelphia, Pennsylvania
SITUATED, : October 31, 2013
: 2:08 p.m.

6 Plaintiff(s), :

7 v. :

8 MAGUIRE INSURANCE AGENCY, :
9 INC., :

Defendant(s). :

10

11 TRANSCRIPT OF ORAL ARGUMENT
BEFORE THE HONORABLE MITCHELL S. GOLDBERG
12 UNITED STATES DISTRICT COURT JUDGE

13 APPEARANCES:

14 For the Plaintiff(s): Robert J. Wiley, Esquire
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22 Court Recorder: Stephen Sonnie
23 Clerk's Office
24 U.S. District Court

1 other employees, right?

2 MR. WILEY: Yes, Your Honor.

3 THE COURT: All right.

4 MR. WILEY: It's limited to fast-track auto claims
5 adjusters of about -- there's only about 20 at any one time.

6 THE COURT: All right. So how about if you haven't
7 asked this question, you ask -- subject to their input, I
8 permit you to ask this question by written discovery. Give
9 us -- you pick the number, 15, 10, 20 specific examples with
10 accompanying data and documents, definitively reflecting that
11 Mr. -- is it Estrada?

12 MR. WILEY: Yes, Your Honor.

13 THE COURT: That Mr. Estrada and 10 other employees
14 who were fast-track claims -- fast-track examiners exercised
15 discretion. Does that solve your problem? And then I make
16 them answer that question.

17 MR. WILEY: But, Your Honor, I think that that -- to
18 some extent, I would like some sort of a random selection of
19 the -- so they don't line up the ten --

20 THE COURT: Well, that's exactly what I was kicking
21 around with my law clerk before we came down here. How would
22 we work this so they wouldn't be able to sort of -- and I'm
23 not saying you would do anything improper, but they would
24 select the best examples. How do we do that? How do we fix
25 that?

1 allowed to reach out to people who work for you? That's not
2 ethical.

3 MS. BLOOM: Typically what is --

4 THE COURT: You can't contact -- a lawyer through a
5 client can't contact employees of a represented party.

6 MS. BLOOM: Typically what we see is, for example,
7 his client might talk to somebody that he had worked with and
8 that person might say, hey, I'm not -- I didn't -- I'm not
9 exempt, too, I'm going to opt in. Or they collect
10 declarations and they come to court with declarations.

11 THE COURT: All right. Well, you told me I'm not
12 approaching this in a backwards way, so that's what we're
13 going to do. You're going to provide him with the names, not
14 addresses, on that document. I'll construct an order and
15 then I'll construct an order that's going to give him
16 limited, very limited, written -- very limited written
17 discovery, not depositions, on what we've been talking about
18 and a very quick turnaround if you don't mind because I don't
19 want to turn my attention away from this case now that I'm
20 sort of into it. And then what I'll do, Mr. Wiley, is I'll
21 wait until you receive that discovery. It's going to be
22 limited, okay, and very discrete and then you'll let me know,
23 I'll work this into my order, within a certain period of time
24 after you receive the discovery whether you want to
25 supplement your response to their Motion for Summary Judgment

1 or yours. And if the answer is I want to, I'm going to give
2 you a very limited period of time to do that and of course,
3 I'll let the Defense respond. And then, according to you,
4 Mr. Wiley, I'll be in the best position to decide the motion.
5 And then, if the motions are -- if we still have a, you know,
6 case, if I -- then I think the next logical step is, is the
7 ruling on the conditional certification. And then, you know,
8 the notices and so forth and so on, okay? So that's the way
9 I want to approach it. I'll take -- actually I have to go,
10 but I'll take comments, suggestions from the lawyers on, you
11 know, how to tweak that approach or even to tell me that's
12 not a good approach.

13 MS. BLOOM: On the --

14 THE COURT: But I'm not changing my mind on the
15 discovery. Let me start with Mr. Wiley first.

16 MR. WILEY: Your Honor, I think that's all fine. I
17 would ask that you give us maybe till like 5 o'clock on
18 Monday, if we could maybe propose what we were thinking of as
19 the discovery questions since -- I mean, I --

20 THE COURT: Well, we've been talking about it for an
21 hour.

22 MR. WILEY: I know, but I just thought it might make
23 the Court's job easier if we -- I'm not going to overreach,
24 Your Honor. I don't want to upset the apple cart, but just
25 to like give you a sense of why --